

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

| | | |
|--------------------|---|-------------------------|
| WILLIAM E. MOTLEY, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| vs. |) | Case No. 4:02CV00513ERW |
| |) | (TCM) |
| MICHAEL BOWERSOX, |) | |
| |) | |
| Respondent. |) | |

ORDER

This matter is before the Court upon the Report and Recommendation of United States Magistrate Judge Thomas C. Mummert III [doc. #13] pursuant to 28 U.S.C. § 636(b).

The Court notes that no objections were filed to the Report and Recommendation. After consideration of the issues, the Court hereby sustains, adopts and incorporates herein the Magistrate's Report and Recommendation.

In addition, the Court finds that Petitioner cannot make a substantial showing of the denial of a constitutional right, which is required before a certificate of appealability can issue. See Cox v. Norris, 133 F.3d 565, 569 (8th Cir. 1997). Therefore, the Court shall not issue a certificate of appealability as to any claim raised in Petitioner's § 2254 motion.

Accordingly,

IT IS HEREBY ORDERED that Petitioner's § 2254 Motion [doc. #13] is **DENIED**.

IT IS FURTHER ORDERED that the Court shall not issue a certificate of appealability as to any claim raised in Petitioner's § 2254 Motion.

Dated this 3rd day of August, 2005.

A handwritten signature in black ink, appearing to read "E. Richard Webber", written over a horizontal line.

E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE